

**BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

In The Matter Of:

**TCB TRANSPORTATION, LLC,

Respondent.**

**Docket No. FMCSA-2009-0107¹
(Midwestern Service Center)**

ORDER CLOSING DOCKET

On May 13, 2009, the Midwestern Field Administrator for the Federal Motor Carrier Safety Administration (Claimant) submitted a Notice of Settlement and Motion to Close Docket. Claimant and Respondent entered into a Settlement Agreement resolving a Notice of Claim (NOC) issued January 14, 2009.

Prior to Claimant's May 13 Notice and Motion, the only documents in the docket were two motions by Claimant requesting additional time to respond to Respondent's Notice of Intent to Submit Evidence without Hearing, which was included in Respondent's reply to the NOC.

Under 49 CFR 386.22(b), the parties may execute a settlement agreement disposing of a civil penalty proceeding at any time prior to the case coming before the Agency decisionmaker without approval by the Agency decisionmaker. As I stated in a recent case discussing the need to ask the Assistant Administration for an extension of time to submit written evidence:

If this matter came before the Assistant Administrator solely to rule upon the Motion for Extension of Time, then the Assistant Administrator would be required to approve the settlement agreement. That is not what the revised Rules

¹ The prior case number was MO-0012-US0084.

of Practice intended. Because this matter was not already before me when the Motion for Extension of Time was submitted, it is not before me now; therefore, if the parties enter into an agreement, it will not come before me for approval.²

As was the case in *Rapid Logistics*, Claimant's motions for extensions of time did not place this case before the Agency decisionmaker and the Agreement of Settlement should not have been submitted to me for approval. Therefore, this docket is closed.

It Is So Ordered.



Rose A. McMurray
Assistant Administrator
Federal Motor Carrier Safety Administration

6-17-09

Date

² *In the Matter of Rapid Logistics, LLC*, Docket No. FMCSA-2008-0113, Order Closing Docket, June 10, 2008, at 2. Unlike the instant case, the parties had not yet executed an Agreement of Settlement.

CERTIFICATE OF SERVICE

This is to certify that on this 23 day of June, 2009, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

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